

1 The Honorable Ricardo S. Martinez  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 EDGE, et al.,  
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Plaintiff,

12 v.  
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CITY OF EVERETT,  
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Defendant.

Case No. 2:17-cv-01361-RSM

**JOINT STIPULATION AND ORDER  
REGARDING CASE SCHEDULE**

16 Plaintiffs Jovanna Edge, Leah Humphrey, Liberty Ziska, Amelia Powell, Natalie Bjerke,  
17 and Matteson Hernandez (collectively, “Plaintiffs”) and Defendant City of Everett (the “City”)  
18 (together, the “Parties”) hereby stipulate and move the Court as follows:

19 On January 11, 2018, the Parties jointly requested that this lawsuit be stayed, including all  
20 proceedings, applicable discovery and other deadlines, and the trial date, until resolution of the  
21 City’s preliminary injunction appeal or upon earlier motion by either Party to re-commence the  
22 lawsuit. (Dkt. No. 61.)

23 On January 16, 2018, the Court granted the Parties’ request and stayed this lawsuit until  
24 resolution of the City’s preliminary injunction appeal, and ordered the Parties submit a joint  
25 status report to the Court following a final determination by the Ninth Circuit in the City’s  
26 preliminary injunction appeal. (Dkt. No. 64.)

27 On July 3, 2019, the Ninth Circuit issued its order granting the City’s appeal and reversing  
28 and remanding this lawsuit back to this Court. (Dkt. No. 65.)

1 On March 12, 2020, the Ninth Circuit issued its final mandate. (No. 17-36038, Dkt. No.  
 2 73.)

3 Following remand, the Parties have engaged in good-faith negotiations regarding the most  
 4 efficient way to move this case forward in light of the constraints presented by the ongoing  
 5 COVID-19 pandemic and the evidence gathered and presented by both sides in connection with  
 6 the 2017 preliminary injunction motions practice.

7 Therefore, the Parties, through their respective counsel, of record, stipulate and agree as  
 8 follows:

9 The Parties propose the following case schedule:

10 On or before October 20, 2020, Plaintiffs will produce their expert reports and all  
 11 supporting materials relied on by the experts other than those documents previously produced, in  
 12 the public record, in the control of the opposing party, or as easily accessible to the opposing  
 13 party as to Plaintiffs and the experts. Plaintiffs shall make any experts they disclose available for  
 14 deposition at mutually convenient times sufficiently in advance of the City's deadline for expert  
 15 reports, with the understanding that these depositions will likely be conducted remotely unless  
 16 public health conditions improve enough to allow otherwise.

17 On or before December 21, 2020, the City will produce its expert reports (including any  
 18 rebuttal or reply to Plaintiffs' expert reports) and all supporting materials relied on by the experts  
 19 other than those documents previously produced, in the public record, in the control of the  
 20 opposing party, or as easily accessible to the opposing party as to Plaintiffs and the experts. To  
 21 the extent the City designates any experts, it shall make them available for deposition at mutually  
 22 convenient times sufficiently in advance of Plaintiffs deadline for rebuttal reports or filing of  
 23 dispositive motions, with the understanding that these depositions will likely be conducted  
 24 remotely unless public health conditions improve enough to allow otherwise.

25 On or before January 22, 2021, Plaintiffs will produce any expert reports they intend to  
 26 rely on in rebuttal to any of the City's expert reports (aside from rebuttal reports, to which no  
 27 further reply is permitted) and all supporting materials relied on by the experts other than those  
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1 documents previously produced, in the public record, in the control of the opposing party, or as  
2 easily accessible to the opposing party as to Plaintiffs and the experts.

3 Plaintiffs agree that they will, in filing and defending dispositive motions, rely solely on  
4 the factual record already presented to the Court during the preliminary injunction proceedings,  
5 with the exception of expert witness testimony and supporting materials (i.e., studies and already  
6 of record evidence upon which the experts may rely). The City, in turn, agrees to rely on the  
7 factual record already presented to the Court during the preliminary injunction proceedings, with  
8 the exception of additional factual testimony or records responsive to any new issues raised by  
9 Plaintiffs or Plaintiffs' experts, or any expert designations of its own as contemplated above.

10 Upon that basis, the Parties agree that other than the discovery already completed, the  
11 expert discovery contemplated above, and any supplemental fact discovery reasonably  
12 responsive to the above expert designations and supporting materials, they will not seek further  
13 discovery of the other absent mutual assent or leave of the Court.

14 On or before February 18, 2021 the Parties will file their respective motions for summary  
15 judgment (if any), noted for hearing on March 12, 2021, with response and reply briefs to be due  
16 pursuant to the federal civil rules and local rules of this Court.

17 If any issues remain to be tried following summary judgment, the Parties will meet and  
18 confer with each other and propose a pre-trial and trial schedule to the Court at that time.

19 SO STIPULATED.

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1 Respectfully submitted, October 20, 2020.

2 **NEWMAN DU WORS LLP**

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9 **CITY OF EVERETT**

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s/ Ramsey Ramerman

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6 *Attorneys for Defendant*

1 **ORDER**

2 This matter having come before the Court on the above Joint Stipulation Regarding Case  
 3 Schedule, the Court HEREBY ORDERS THAT:

4 On or before October 20, 2020, Plaintiffs will produce their expert reports and all  
 5 supporting materials relied on by the experts other than those documents previously produced, in  
 6 the public record, in the control of the opposing party, or as easily accessible to the opposing  
 7 party as to Plaintiffs and the experts. Plaintiffs shall make any experts they disclose available for  
 8 deposition at mutually convenient times sufficiently in advance of the City's deadline for expert  
 9 reports, with the understanding that these depositions will likely be conducted remotely unless  
 10 public health conditions improve enough to allow otherwise.

11 On or before December 21, 2020, the City will produce its expert reports (including any  
 12 rebuttal or reply to Plaintiffs' expert reports) and all supporting materials relied on by the experts  
 13 other than those documents previously produced, in the public record, in the control of the  
 14 opposing party, or as easily accessible to the opposing party as to Plaintiffs and the experts. To  
 15 the extent the City designates any experts, it shall make them available for deposition at mutually  
 16 convenient times sufficiently in advance of Plaintiffs deadline for rebuttal reports or filing of  
 17 dispositive motions, with the understanding that these depositions will likely be conducted  
 18 remotely unless public health conditions improve enough to allow otherwise.

19 On or before January 22, 2021, Plaintiffs will produce any expert reports they intend to  
 20 rely on in rebuttal or reply to the City's expert reports and all supporting materials relied on by  
 21 the experts other than those documents previously produced, in the public record, in the control  
 22 of the opposing party, or as easily accessible to the opposing party as to Plaintiffs and the  
 23 experts.

24 Other than the discovery already completed, the expert discovery set forth above, and any  
 25 supplemental fact discovery reasonably responsive to the above expert designations and  
 26 supporting materials, the Parties are prohibited from taking any further discovery of the other  
 27 absent mutual assent or leave of the Court.

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1       The Court sets a dispositive motion noting date of March 12, 2021 consistent with this  
2 stipulation and order.

3       If any issues remain to be tried following the Court's resolution of summary-judgment  
4 motions, the Parties will meet and confer with each other and propose a pre-trial and trial  
5 schedule to the Court at that time.

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7       IT IS SO ORDERED.

8       Dated this 20<sup>th</sup> day of October, 2020.

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11      RICARDO S. MARTINEZ  
12      CHIEF UNITED STATES DISTRICT JUDGE

13      Presented by:

14      **NEWMAN DU WORS LLP**

15      **PACIFICA LAW GROUP LLP**

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33      **CITY OF EVERETT**

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